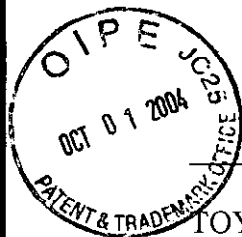


Attorney Docket No.: 238096US21



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TOYOTA JIDOSHA KABUSHIKI KAISHA
t/a TOYOTA MOTOR CORPORATION,
and
TOYOTA MOTOR SALES, U.S.A., INC.,

Opposers,

v.

SYNGENTA PARTICIPATIONS AG,

Applicant.

CONSOLIDATED

Opposition No.: 157,206
Mark: LEXUS
U.S. Appln. Serial No.: 78/145,546

Opposition No.: 159,578
Mark: LEXXUS
U.S. Appln. Serial No.: 78/185/538

OPPOSERS' MOTION FOR ENTRY OF PROTECTIVE ORDER

Opposers, Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor Corporation and Toyota Motor Sales, U.S.A, Inc. ("Opposers"), move the Board for entry of the Protective Order attached hereto as Exhibit A.

In support of their motion, Opposers state that the parties have attempted to reach agreement on the entry of a Stipulated Protective Order since May 20, 2004. The single disputed issue remaining is the language of paragraph 8 of the attached proposed Protective Order that reads:

Deletions made from any Material in accordance with the terms of this Protective Order shall not affect the admissibility of any such material in evidence in this proceeding.

Applicant has objected to this language, and has proposed the following language:

Deletions made from any Material in accordance with the terms of this Protective Order shall not affect the admissibility of any such



10-01-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

Material in evidence in this proceeding only upon consent of the other party or party not creating said deletions.

Opposers do not understand the reason for, or the intended result, of the proposed language, and Applicant's attorney has not offered an understandable explanation. Opposers cannot agree with Applicant's proposed version of paragraph 8 of the Protective Order. Opposers attach the most relevant correspondence addressing the substance of the parties' disagreement as collective Exhibit B.

Accordingly, Opposers request that the Board enter the attached Protective Order.

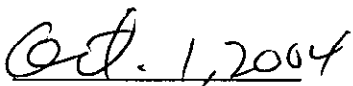
Respectfully submitted,

TOYOTA JIDOSHA KABUSHIKI
KAISHA t/a TOYOTA MOTOR
CORPORATION, and TOYOTA MOTOR
SALES, U.S.A., INC.

By:


David J. Kera
Amy Sullivan Cahill
Oblon, Spivak, McClelland,
Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
fax (703) 413-2220
e-mail: tmdocket@oblon.com

Date:



DJK/ASC/kae/ojb {I:\atty\DJK\0213-238096US-mot.doc}

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSERS' MOTION FOR ENTRY OF PROTECTIVE ORDER** was served on counsel for Applicant, this 1st day of October, 2004, by sending same via First Class mail, postage prepaid, to:

James A. Zellinger
Syngenta Crop Protection Inc.
410 Swing Road
Greenboro, North Carolina 27409

D. Jean Barrett

EXHIBIT A

TOYOTA JIDOSHA KABUSHIKI KAISHA)	
t/a TOYOTA MOTOR CORPORATION,)	
and)	<u>CONSOLIDATED</u>
TOYOTA MOTOR SALES, U.S.A., INC.,)	Opposition No.: 157,206
)	Mark: LEXUS
Opposers)	U.S. Appln. Serial No.: 78/145,546
)	
v.)	Opposition No.: 159,578
)	Mark: LEXXUS
SYNGENTA PARTICIPATIONS AG,)	U.S. Appln. Serial No.: 78/185,538
)	
Applicant)	
)	

Pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f),

1. Any documents, answers to interrogatories, or document requests, deposition transcripts, or portions thereof, responses to requests for admissions, or any other material or portions thereof (hereinafter "Material") provided by either party to the other party during the pendency of this proceeding may be designated and marked, in whole (when appropriate) or in part, "Confidential" by counsel for the party producing such Material, at the time of its production.

2. To the extent that Material is so marked Confidential, such Material shall only be revealed to or used by Qualified Persons as provided for in paragraph 3 hereof and shall not be communicated in any manner, either directly or indirectly, to any person or entity not permitted to receive disclosure of Confidential Material pursuant to this Protective Order. Any copies of such Material, abstracts, summaries, or information derived therefrom, and any notes or other records recording, summarizing, or referring to confidential information, shall also be deemed Confidential and the same terms regarding confidentiality of these materials shall apply as to the originals, and shall thereafter be referred to as "Confidential Material." Such Confidential Material shall be used only for purposes directly related to these proceedings and any subsequent federal court actions arising from the same claims as herein, and for no other purpose whatsoever.

3. As used herein, the term "Qualified Persons" means:

(a) The following counsel for the parties, including said counsels' associate attorneys, legal assistants, paralegals and secretarial and clerical employees (including shorthand reporters):

(i) For Opposers: David J. Kera, Esquire and Amy Sullivan Cahill, Esquire of Oblon, Spivak, McClelland, Maier & Neustadt, P.C.; and Martin L. Smith, Esquire and Karen Rigberg, Esquire of Toyota Motor Sales, U.S.A., Inc.

(ii) For Applicant: James A. Zellinger, Esquire, Brian Reeve, Esquire, and Thomas Hamilton, Esquire of Syngenta Crop Protection, Inc. and Ned Branthover, Esquire of Robin, Blecker & Daly of New York, New York.

(b) Any independent experts not in the personal employ, regularly retained, or otherwise related to Opposers or Applicant, who have been employed or retained by a party or its attorney in connection with this action, may be given access to Confidential Material, for purposes directly related to this proceeding, and for no other purpose whatsoever, ten (10) days following opposing counsel's receipt of:

(i) the expert's executed Confidential Undertaking, in the following form:

The undersigned has read the Protective Order entered in this proceeding pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), and confirms: (1) that he/she shall fully abide by the terms thereof; (2) that he/she shall not disclose the Confidential Material to or discuss the Confidential Material with any person who is not authorized pursuant to the terms of said Protective Order to receive the disclosure thereof; and (3) that he/she shall not use such Confidential Material for any purpose other than for the purposes of this proceeding;

(ii) a list of the expert's current affiliation;

and provided that opposing counsel has not objected in writing within the ten-day period to the expert's having access to Confidential Material.

4. Counsel in receipt of Confidential material from the other party shall notify counsel for the party of the disclosure of such Confidential Material to such Qualified Persons as designated in subsection (b) of paragraph 3 of this Protective Order. Each person designated and qualified in subsection (b) of paragraph 3 shall, in turn, hold such Confidential Material in confidence pursuant to the terms of this Protective Order.

5. Acceptance by a party of any information, document, or thing designated as Confidential shall not constitute a concession that the information, document or thing is confidential. Either party may contest a claim of confidentiality. In the event that the receiving party disagrees with the designation and marking by any producing party of any material as Confidential, the parties shall first try to resolve such dispute on an informal basis. If agreement cannot be reached between counsel, such dispute shall be presented to the Trademark Trial and Appeal Board for resolution.

6. The subject matter of all depositions given in connection with this action and the original and all copies of the transcripts of any such depositions shall be deemed to come within the term Confidential Material referred to in paragraph 2 of this Protective Order for a period ending twenty (20) working days after the transcript is received by the disclosing party's counsel. If testimony concerning Confidential Material is elicited at a deposition, counsel for either party may request that a designated portion of the transcript be treated as Confidential under this Protective Order. The stenographic reporter shall place the confidential testimony in a separately bound transcript marked CONFIDENTIAL, with page numbers corresponding to blank pages left in the deponent's non-confidential deposition transcript. On or before the twentieth (20th) working day after any such transcript is received by the disclosing party's counsel, such transcript may be designated and marked, in whole or in part, "Confidential" by counsel for the disclosing party, and the portions of the transcript(s) of the deposition(s) so marked shall be subject to the provisions of this Protective Order.

7. Where a discovery response, document, deposition transcript, or other tangible thing to be produced contains portions which have been designated Confidential, such Confidential Material shall be deleted therefrom before disclosing such Material to any person other than

Qualified Persons as designated in paragraph 3.

8. Deletions made from any Material in accordance with the terms of this Protective Order shall not affect the admissibility of any such Material in evidence in this proceeding.

9. If Confidential Material is to be made of record in this proceeding, it shall be submitted to the Board in a separate sealed envelope or other sealed container bearing the caption of this proceeding, the opposition number, and an indication of the general nature of the contents of the envelope or container, and, in large letters, the designation "CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER."

10. After this proceeding is finally completed, including all appeals, counsel for all parties shall return all Confidential Material which have remained confidential and copies thereof to the disclosing party.

SO ORDERED, this ____ day of _____, 2004.

TRADEMARK TRIAL AND
APPEAL BOARD

DJK/ASC/ojb {I:\ATTY\DJ\213-238096US-PO.DOC}

EXHIBIT B



May 20, 2004

James A. Zellinger, Esquire
410 Swing Road
Greensboro, NC 27409

ATTORNEYS AT LAW

DAVID J. KERA
(703) 412-6456
DKERA@OBLON.COM

Re: Toyota Jidosha Kabushiki Kaisha
t/a Toyota Motor Corporation, and Toyota
Motor Sales, U.S.A, Inc., v. Syngenta Participations AG
Consolidated Opposition No.(s): 157,206 & 159,578
Our Ref(s): 238096US-213-21 & 246415US-2006-21

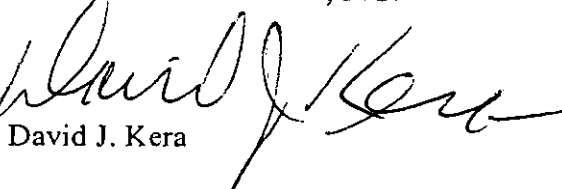
Dear Mr. Zellinger:

In light of the Board's April 30, 2004 Order, I am enclosing a draft of a suggested Stipulated Protective Order.

As you know, the Board has directed the parties to negotiate for a protective order to permit discovery to proceed by May 30, 2004. Please contact me with your comments.

Sincerely yours,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



David J. Kera

DJK/ASC/kae/ojb {I:\atty\DJK\0213-238096US-ltr.doc}

Enclosure(s): Stipulated Protective Order (proposed)

cc: Karen Rigberg, Esq.
Martin L. Smith, Esq.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TOYOTA JIDOSHA KABUSHIKI KAISHA
t/a TOYOTA MOTOR CORPORATION,

and

TOYOTA MOTOR SALES, U.S.A., INC.,

Opposers

v.

SYNGENTA PARTICIPATIONS AG,

Applicant

CONSOLIDATED

Opposition No.: 157,206

Mark: LEXUS

U.S. Appln. Serial No.: 78/145,546

Opposition No.: 159,578

Mark: LEXXUS

U.S. Appln. Serial No.: 78/185,538

STIPULATED PROTECTIVE ORDER

Pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f),

IT IS HEREBY ORDERED, that if, in the course of this proceeding, either party has the occasion to disclose information deemed by such party to constitute confidential, proprietary information of the type contemplated by Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), the following procedures shall be employed and the following restrictions shall govern:

1. Any documents, answers to interrogatories, or document requests, deposition transcripts, or portions thereof, responses to requests for admissions, or any other material or portions thereof (hereinafter "Material") provided by either party to the other party during the pendency of this proceeding may be designated and marked, in whole or in part, "Confidential" by counsel for the party producing such Material, at the time of its production.

2. To the extent that Material is so marked Confidential, such Material shall only be revealed to or used by Qualified Persons as provided for in paragraph 3 hereof and shall not be

communicated in any manner, either directly or indirectly, to any person or entity not permitted to receive disclosure of Confidential Material pursuant to this Protective Order. Any copies of such Material, abstracts, summaries, or information derived therefrom, and any notes or other records regarding the contents thereof, shall also be deemed Confidential and the same terms regarding confidentiality of these materials shall apply as to the originals, and shall thereafter be referred to as "Confidential Material." Such Confidential Material shall be used only for purposes directly related to this proceeding, and for no other purpose whatsoever.

3. As used herein, the term "Qualified Persons" means:

- (a) The following counsel for the parties, including said counsels' associate attorneys, legal assistants, paralegals and secretarial and clerical employees (including shorthand reporters):
 - (i) For Opposers: David J. Kera, Esquire and Amy Sullivan Cahill, Esquire of Oblon, Spivak, McClelland, Maier & Neustadt, P.C.; and Martin L. Smith, Esquire and Karen Rigberg, Esquire of Toyota Motor Sales, U.S.A., Inc.
 - (ii) For Applicant: James A. Zellinger, Esquire, of Syngenta Crop Protection, Inc.
- (b) Any independent experts not in the personal employ, regularly retained, or otherwise related to Opposers or Applicant, who have been employed or retained by a party or its attorney in connection with this action, may be given access to Confidential Material, for purposes directly related to this proceeding, and for no other purpose whatsoever, ten (10) days following

opposing counsel's receipt of:

- (i) the expert's executed Confidential Undertaking, in the following form:

The undersigned has read the Stipulated Protective Order entered in this proceeding pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), and confirms: (1) that he/she shall fully abide by the terms thereof; (2) that he/she shall not disclose the Confidential Material to or discuss the Confidential Material with any person who is not authorized pursuant to the terms of said Protective Order to receive the disclosure thereof; and (3) that he/she shall not use such Confidential Material for any purpose other than for the purposes of this proceeding;

- (ii) a list of the expert's prior experience and current affiliation;

and provided that opposing counsel has not objected in writing within

the ten-day period to the expert's having access to Confidential

Material.

4. Counsel in receipt of Confidential material from the other party shall notify counsel for the party of the disclosure of such Confidential Material to such Qualified Persons as designated in subsection (b) of paragraph 3 of this Protective Order. Each person designated and qualified in subsection (b) of paragraph 3 shall, in turn, hold such Confidential Material in confidence pursuant to the terms of this Protective Order.

5. Acceptance by a party of any information, document, or thing designated as Confidential shall not constitute a concession that the information, document or thing is confidential. Either party may contest a claim of confidentiality. In the event that the receiving party disagrees with the designation and marking by any producing party of any material as Confidential, the parties shall first try to resolve such dispute on an informal basis. If agreement cannot be reached between

counsel, such dispute shall be presented to the Trademark Trial and Appeal Board for resolution.

6. The subject matter of all depositions given in connection with this action and the original and all copies of the transcripts of any such depositions shall be deemed to come within the term Confidential Material referred to in paragraph 2 of this Protective Order for a period ending twenty (20) working days after the transcript is received by the disclosing party's counsel. If testimony concerning Confidential Material is elicited at a deposition, counsel for either party may request that a designated portion of the transcript be treated as Confidential under this Protective Order. The stenographic reporter shall place the confidential testimony in a separately bound transcript marked CONFIDENTIAL, with page numbers corresponding to blank pages left in the deponent's non-confidential deposition transcript. On or before the twentieth (20th) working day after any such transcript is received by the disclosing party's counsel, such transcript may be designated and marked, in whole or in part, "Confidential" by counsel for the disclosing party, and the portions of the transcript(s) of the deposition(s) so marked shall be subject to the provisions of this Protective Order.

7. Where a discovery response, document, deposition transcript, or other tangible thing to be produced contains portions which have been designated Confidential, such Confidential Material shall be deleted therefrom before disclosing such Material to any person other than Qualified Persons as designated in paragraph 3.

8. Deletions made from any Material in accordance with the terms of this Protective Order shall not affect the admissibility of any such Material in evidence in this proceeding.

9. If Confidential Material is to be made of record in this proceeding, it shall be submitted to the Board in a separate sealed envelope or other sealed container bearing the caption of this proceeding, the opposition number, and an indication of the general nature of the contents of the envelope or container, and, in large letters, the designation "CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER."

10. After this proceeding is finally completed, including all appeals, counsel for all parties shall return all Confidential Material and copies thereof to the disclosing party.

SO ORDERED, this _____ day of _____, 2004.

TRADEMARK TRIAL AND
APPEAL BOARD

AGREED AS TO FORM AND SUBSTANCE:

**TOYOTA JIDOSHA KABUSHIKI
KAISHA t/a TOYOTA MOTOR
CORPORATION, and TOYOTA
MOTOR SALES, U.S.A., INC.**

SYNGENTA PARTICIPATIONS AG,

Signature

Signature

Name

Name

Title

Title

Date

Date

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

SYNGENTA CROP PROTECTION INC.

By:

David J. Kera
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax: (703) 413-2220

Attorney for Opposers

By:

James A. Zellinger
410 Swing Road
Greensboro, North Carolina 27409
(336) 632-7835
Fax: (336) 632-2012

Attorney for Applicant

Dated: _____

Dated: _____

DJK/ASC/rab/nlt/lde {I:\ATTY\DJK\213-238096US-SPO2.DOC}

RECEIVED

JUN 04 2004

syngenta

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

James A. Zellinger
Trademark Counsel

Kera
Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409

Tel 336-632-7835
Fax 336-632-2012
e-mail:
jim.zellinger@syngenta.com

June 1, 2004

David J. Kera
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Re: *Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor Corporation, and Toyota Motor Sales, U.S.A., Inc., v. Syngenta Participations AG.*
Consolidated Opposition Nos: 157,206 & 159,578

Dear Mr. Kera:

Please find enclosed your draft of the stipulated protective order with my handwritten changes. They are as follows:

Page No.	Line	Suggested Revision
1	¶1, 4	add: when appropriate
2	4	add: specifically dealing with
2	¶3(a)(ii), 2	add: Brian Reeve Esq., Thomas Hamilton of Syngenta Crop Protection, Inc., and Ned Branthover of Robin, Blecker & Daly of New York, New York
2	7	add: these proceedings and any federal court action arising from the same claims as herein.
3	¶3(b)(ii)	delete: prior experiences
4	¶8, 2	add: only upon consent of other party or party not causing said deletions.
5	¶10, 2	add: which have remained confidential.

Upon the addition and deletion of the above comments, Applicant will be in a position to consider execution of the proposed stipulation.

Very truly yours,

James A. Zellinger

JAZ/sk

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TOYOTA JIDOSHA KABUSHIKI KAISHA
t/a TOYOTA MOTOR CORPORATION,

and

TOYOTA MOTOR SALES, U.S.A., INC.,

Opposers

v.

SYNGENTA PARTICIPATIONS AG,

Applicant

CONSOLIDATED

Opposition No.: 157,206

Mark: LEXUS

U.S. Appln. Serial No.: 78/145,546

Opposition No.: 159,578

Mark: LEXXUS

U.S. Appln. Serial No.: 78/185,538

STIPULATED PROTECTIVE ORDER

Pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f),

IT IS HEREBY ORDERED, that if, in the course of this proceeding, either party has the occasion to disclose information deemed by such party to constitute confidential, proprietary information of the type contemplated by Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), the following procedures shall be employed and the following restrictions shall govern:

1. Any documents, answers to interrogatories, or document requests, deposition transcripts, or portions thereof, responses to requests for admissions, or any other material or portions thereof (hereinafter "Material") provided by either party to the other party during the pendency of this proceeding may be designated and marked, in whole or in part, "Confidential" by counsel for the party producing such Material, at the time of its production.

2. To the extent that Material is so marked Confidential, such Material shall only be revealed to or used by Qualified Persons as provided for in paragraph 3 hereof and shall not be

communicated in any manner, either directly or indirectly, to any person or entity not permitted to receive disclosure of Confidential Material pursuant to this Protective Order. Any copies of such Material, abstracts, summaries, or information derived therefrom, and any notes or other records *specifically identifying* ~~regarding~~ the contents thereof, shall also be deemed Confidential and the same terms regarding confidentiality of these materials shall apply as to the originals, and shall thereafter be referred to as "Confidential Material." Such Confidential Material shall be used only for purposes directly related to ~~this proceeding~~ *and any subsequent federal court action arising from the same claims as herein* and for no other purpose whatsoever.

3. As used herein, the term "Qualified Persons" means:

(a) The following counsel for the parties, including said counsels' associate attorneys, legal assistants, paralegals and secretarial and clerical employees (including shorthand reporters):

(i) For Opposers: David J. Kera, Esquire and Amy Sullivan Cahill, Esquire of Oblon, Spivak, McClelland, Maier & Neustadt, P.C.; and Martin L. Smith, Esquire and Karen Rigberg, Esquire of Toyota Motor Sales, U.S.A., Inc.

(ii) For Applicant: James A. Zellinger, Esquire of Syngenta Crop Protection, Inc. *and Ned Branthover of Robin, Becker & Dake, N.Y., N.Y.* *Brian Reeve, Thomas Hamilton*

(b) Any independent experts not in the personal employ, regularly retained, or otherwise related to Opposers or Applicant, who have been employed or retained by a party or its attorney in connection with this action, may be given access to Confidential Material, for purposes directly related to this proceeding, and for no other purpose whatsoever, ten (10) days following

opposing counsel's receipt of:

- (i) the expert's executed Confidential Undertaking, in the following form:

The undersigned has read the Stipulated Protective Order entered in this proceeding pursuant to Rule 26(c), Fed.R.Civ.P., and Trademark Rule 2.120(f), and confirms: (1) that he/she shall fully abide by the terms thereof; (2) that he/she shall not disclose the Confidential Material to or discuss the Confidential Material with any person who is not authorized pursuant to the terms of said Protective Order to receive the disclosure thereof; and (3) that he/she shall not use such Confidential Material for any purpose other than for the purposes of this proceeding;

- (ii) a list of the expert's ~~prior experience and~~ current affiliation; X
and provided that opposing counsel has not objected in writing within the ten-day period to the expert's having access to Confidential Material.

4. Counsel in receipt of Confidential material from the other party shall notify counsel for the party of the disclosure of such Confidential Material to such Qualified Persons as designated in subsection (b) of paragraph 3 of this Protective Order. Each person designated and qualified in subsection (b) of paragraph 3 shall, in turn, hold such Confidential Material in confidence pursuant to the terms of this Protective Order.

5. Acceptance by a party of any information, document, or thing designated as Confidential shall not constitute a concession that the information, document or thing is confidential. Either party may contest a claim of confidentiality. In the event that the receiving party disagrees with the designation and marking by any producing party of any material as Confidential, the parties shall first try to resolve such dispute on an informal basis. If agreement cannot be reached between

counsel, such dispute shall be presented to the Trademark Trial and Appeal Board for resolution.

6. The subject matter of all depositions given in connection with this action and the original and all copies of the transcripts of any such depositions shall be deemed to come within the term Confidential Material referred to in paragraph 2 of this Protective Order for a period ending twenty (20) working days after the transcript is received by the disclosing party's counsel. If testimony concerning Confidential Material is elicited at a deposition, counsel for either party may request that a designated portion of the transcript be treated as Confidential under this Protective Order. The stenographic reporter shall place the confidential testimony in a separately bound transcript marked CONFIDENTIAL, with page numbers corresponding to blank pages left in the deponent's non-confidential deposition transcript. On or before the twentieth (20th) working day after any such transcript is received by the disclosing party's counsel, such transcript may be designated and marked, in whole or in part, "Confidential" by counsel for the disclosing party, and the portions of the transcript(s) of the deposition(s) so marked shall be subject to the provisions of this Protective Order.

7. Where a discovery response, document, deposition transcript, or other tangible thing to be produced contains portions which have been designated Confidential, such Confidential Material shall be deleted therefrom before disclosing such Material to any person other than Qualified Persons as designated in paragraph 3.

8. Deletions made from any Material in accordance with the terms of this Protective Order shall not affect the admissibility of any such Material in evidence in this proceeding *only upon consent of the other party or party not creating said deletions*

9. If Confidential Material is to be made of record in this proceeding, it shall be submitted to the Board in a separate sealed envelope or other sealed container bearing the caption of this proceeding, the opposition number, and an indication of the general nature of the contents of the envelope or container, and, in large letters, the designation "CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER."

10. After this proceeding is finally completed, including all appeals, counsel for all parties shall return all Confidential Material *which have remained confidential* and copies thereof to the disclosing party.

SO ORDERED, this _____ day of _____, 2004.

TRADEMARK TRIAL AND
APPEAL BOARD

AGREED AS TO FORM AND SUBSTANCE:

**TOYOTA JIDOSHA KABUSHIKI
KAISHA t/a TOYOTA MOTOR
CORPORATION, and TOYOTA
MOTOR SALES, U.S.A., INC.**

SYNGENTA PARTICIPATIONS AG,

Signature

Signature

Name

Name

Title

Title

Date

Date

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

SYNGENTA CROP PROTECTION INC.

By:

David J. Kera
1940 Duke Street
Alexandria, Virginia 22314
(703) 413-3000
Fax: (703) 413-2220

Attorney for Opposers

By:

James A. Zellinger
410 Swing Road
Greensboro, North Carolina 27409
(336) 632-7835
Fax: (336) 632-2012

Attorney for Applicant

Dated: _____

Dated: _____

DJK/ASC/rab/nlt/lde {I:\ATTY\DJ\213-238096US-SPO2.DOC}

June 18, 2004



James A. Zellinger, Esquire
410 Swing Road
Greensboro, NC 27409

ATTORNEYS AT LAW

AMY SULLIVAN CAHILL
(703) 412-6464
ASULLIVAN@OBLON.COM

Re: Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor
Corporation and Toyota Motor Sales, U.S.A., Inc. v.
Sygenta Participations AG
Opposition No: 157,206
Our Ref: 238096US-213-21

Dear Mr. Zellinger:

David Kera is away from the office until June 29, 2004, and asked that I respond to your June 1, 2004 letter proposing changes to the Stipulated Protective Order in his absence.

Please provide further clarification of the following:

Page 2, Line 4 "specifically identifying"

The language in your letter ("specifically dealing with") does not match your hand-written notes in the Protective Order ("specifically identifying"). Please indicate which change you propose and how you believe that this alters the meaning of the current language.

Page 2, Par. 3(a)(ii) "Thomas Hamilton of Syngenta Crop Protection, Inc."

Please let us know Mr. Hamilton's interest in this matter. Is he a lawyer or an employee in Syngenta's legal division? The purpose of the Protective Order is to keep confidential information out of the hands of non-legal people.

Page 4 "only upon consent of the other party or party not causing said deletions."

James A. Zellinger, Esquire
238096US-213-21
Page 2



This language is unclear and, as written, appears to negate the effect of Paragraph 8.
Please provide clarification.

Sincerely,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Amy Sullivan Cahill

ASC/kae {I:\atty\DJK\0213-238096US-ltr.doc}

syngenta

James A. Zellinger
Trademark Counsel

Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409

Tel 336-632-7835
Fax 336-632-2012
e-mail:
jim.zellinger@syngenta.com

A. Sullivan
cc: D.K.
cc: J.K.

June 28, 2004

RECEIVED

JUL 12 2004

OBLON, SPIVAK, McCLELLAND
MAIER & NEUSTADT, P.C.

Amy Sullivan Cahill
David J. Kera
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Re: *Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor Corporation, and Toyota Motor Sales, U.S.A., Inc., v. Syngenta Participations AG.*
Consolidated Opposition Nos: 157,206 & 159,578

Dear Ms. Cahill:

Thank you for your letter of June 18.

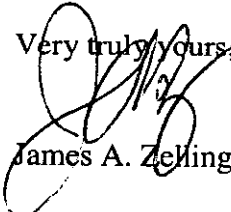
Page 2, Line 4: The term "notes or other records" is so vague that anything could be considered "confidential" and the protective order would apply to all notes. Therefore, a reference to notes needs to relate to those notes that contain confidential information. The phrase "specifically relate to or deal with confidential information" will suffice.

Page 2, Par. 3(a)(ii): Thomas Hamilton is an attorney in my department who will be assisting me with this opposition.

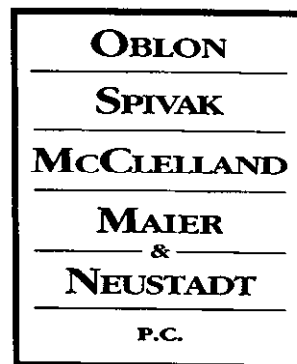
Page 4: The intent was to avoid the admissibility question when deletions are made. Deletions will affect admissibility unless consent of the other party is given or when not deleted by the party offering the materials with deletions. Thus, delete paragraph 8 or otherwise add this language as deletions will affect the admissibility.

If you have further questions or comments, please contact me.

Very truly yours,


James A. Zellinger

JAZ/sk



August 24, 2004

James A. Zellinger, Esquire
410 Swing Road
Greensboro, NC 27409

ATTORNEYS AT LAW

DAVID J. KERA
(703) 412-6456
DKERA@OBLON.COM

Re: Toyota Jidosha Kabushiki Kaisha
t/a Toyota Motor Corporation and
Toyota Motor Sales, U.S.A., Inc. v.
Syngenta Participations AG
Opposition No.: 157,206
Our Ref: 238096US-213-21

Dear Mr. Zellinger:

I refer to your letter of July 30, 2004.

Although I believe it unnecessary, I have no objection to altering the language of Page 2, Line 4 of the Stipulated Protective Order. I agree to the following amendment:

Any copies of such Material, abstracts, summaries, or information derived therefrom, and any notes or other records **recording, summarizing, or referring to confidential information**, shall also be deemed Confidential . . ."

If Thomas Hamilton is an attorney who will be working in his capacity as counsel to Syngenta in this matter, I have no objection to including him as a person with access to confidential materials (Page 2, Par. 3(a)(ii)).

Please advise me of Brian Reeve's title and role in the case. If he is also an attorney, I do not object to his inclusion.

I do not understand your explanation of the proposed change to paragraph 8. The deletion of confidential information from documents, and the documents' admissibility, are separate questions. This is the intent of paragraph 8, as originally drafted. Your letter of June 28, 2004 did not clarify your comment. Therefore, I do not agree with the proposed change in paragraph 8 unless you can explain its intent in an understandable way. Is there a case or treatise you can cite?

James A. Zellinger, Esquire
238096US-213-21
Page 2



I agree that entry of the Stipulated Protective Order is long overdue in this matter. Please indicate whether you and your client will consent to the Stipulated Protective Order with the changes described herein. If not, I believe we will have to ask the Board for an appropriate Order.

With best wishes,

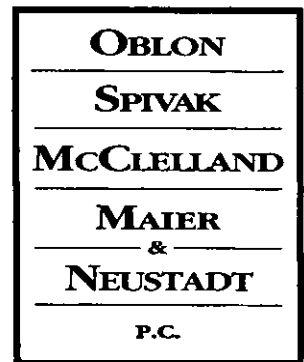
Sincerely yours,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read "David J. Kera".

David J. Kera

DJK/ASC/kae {I:\atty\DJK\213-238096US-It3.doc}



September 10, 2004

James A. Zellinger, Esquire
SYNGENTA CROP PROTECTION INC.
410 Swing Road
Greensboro, NC 27409

ATTORNEYS AT LAW

DAVID J. KERA
(703) 412-6456
DKERA@OBLON.COM

Re: Toyota Jidosha Kabushiki Kaisha
t/a Toyota Motor Corporation and
Toyota Motor Sales, U.S.A., Inc. v.
Syngenta Participations AG
Opposition No.: 157,206
Our Ref: 238096US-213-21

Dear Mr. Zellinger:

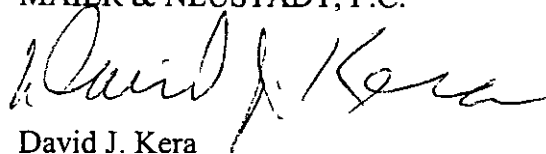
I have received your September 1, 2004 letter.

As far as I know, the month of August comes after the month of July. Therefore it is perfectly reasonable that my letter of August 24, 2004 made reference to your July 30, 2004 letter.

With respect to your letter's penultimate paragraph, I did not say that your counterproposal regarding paragraph 8 of the Stipulated Protective Order was unacceptable. I just don't understand what the proposed change means. Please explain or direct us to some treatise, case, or other reference materials that may help clarify it.

Sincerely yours,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



David J. Kera

DJK/ASC/kae {I:\atty\DJK\213-238096US-It4.doc}

syngenta

James A. Zellinger
Trademark Counsel

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410 Swing Road
Greensboro, NC 27409

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September 17, 2004

David J. Kera
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

Re: *Toyota Jidosha Kabushiki Kaisha t/a Toyota Motor Corporation, and Toyota Motor Sales, U.S.A., Inc., v. Syngenta Participations AG.*
Opposition No: 157,206
Your Ref. 238096US-213-21

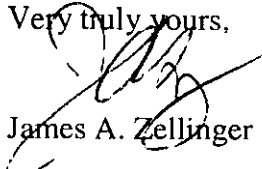
Dear Mr. Kera:

I note the delaying tactics of your letter dated September 10, 2004.

August does indeed follow July as July follows June when my initial letter was written. Please explain how your earlier letter responded to my letter of July 30th (sent again after no response before August 20th). I believe your late August letter refers to my letter of July 30th (when it actually addresses my letters of June 1st and June 28th), in an attempt to disguise the extremely late response which lead to my follow up letter of July 30th. Please explain how your August letter responds to any points in my letter of July.

Finally, regarding the last issue concerning paragraph 8 of the proposed protective order, the language is clear to me. Please explain what you do not understand about the language. You were unable to identify any objection, thus, the protective order should be signed. Obviously, this is yet another obstructionist tactic.

Very truly yours,


James A. Zellinger

JAZ/sk